

**FILED**

UNITED STATES COURT OF APPEALS

**NOV 16 2005**

FOR THE NINTH CIRCUIT

**CATHY A. CATTERSON, CLERK**  
U.S. COURT OF APPEALS

JOHN B. CROUT,

Plaintiff - Appellant,

v.

STATE OF WASHINGTON;  
WASHINGTON ARMY NATIONAL  
GUARD, (WAARNG); UNITED  
STATES DEPARTMENT OF DEFENSE;  
NATIONAL GUARD BUREAU;  
MICHAEL J. WILSON; WILLIAM E.  
PALMER; PAUL W. SELE; LESTER R.  
LEA; JOHN A. GOBEL; ERIC D.  
STEPHENSON; COREY G. MCCOY;  
MAURICE P. SYLVESTER; ERIC  
WINBURN; MICHAEL ALFRED;  
CRAIG E. STRONG; KATHLEEN M.  
KEHR; GREGORY P. BARLOW;  
CONSTANCE R. BYZINKER; LEE S.  
LEGOWIK; GLENDA G. COSTNER;  
GARY LOCKE; TIMOTHY L. ROOTES;  
REGINALD B. GEARY; GEORGE W.  
NETHERCUTT, JR.; BRUCE E. DAVIS;  
JENIFER L. BROWN; PAULA E.  
KOUGEAS; JACK MARVIN; FLOYD  
BISHOP,

Defendants - Appellees.

No. 03-35421

D.C. No. CV-02-00084-RHW

ORDER

Before: THOMPSON, T.G. NELSON, and WARDLAW, Circuit Judges.

The memorandum disposition filed in this case on September 1, 2005, is amended as follows:

At page 4, lines 9 and 10, the sentence which begins “First, Crout has not demonstrated . . .” is amended to read “First, Crout has not demonstrated that he was subject to any discrimination, intentional retaliation or conspiracy by the persons in charge as a result of the filing of his complaint.”

The pro se appellant Crout filed on September 28, 2005, an “AMENDMENT PETITION ‘MOVE THE COURT TO RECONSIDER,’ ” which is construed as a petition for panel rehearing. Crout also filed a petition for rehearing en banc, which was received by the court on October 19, 2005, and which has been filed and circulated to the entire court.

Judges Thompson, T. Nelson and Wardlaw have voted to deny the petition for rehearing. Judge Wardlaw has voted to deny the petition for rehearing en banc, and Judges Thompson and T. Nelson have recommended denial of that petition. No judge of the court requested rehearing en banc.

With the amendment of the memorandum disposition as stated above, the petition for rehearing, and the petition for rehearing en banc, are DENIED.

No further petitions for rehearing or for rehearing en banc may be filed.